

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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STEPHEN KINLAW,

Plaintiff,

v.

ORDER

CITY OF MOUNT VERNON, et al.,

21-CV-00730 (PMH)

Defendants.

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PHILIP M. HALPERN, United States District Judge:

On January 27, 2021, Plaintiff filed a complaint in this action against the City of Mount Vernon, Detective Nicholas Smith, and John Does Nos. 1-8 (collectively, “Defendants”). (Doc. 1). Defendants have not been served with the complaint and, until Plaintiff’s counsel mailed to the Court a letter dated December 13, 2021 (Doc. 7), there had been no activity in this matter since the filing of a civil cover sheet on February 2, 2021. (Doc. 5).

Due to the inactivity in this case, on December 10, 2021, the Court ordered Plaintiff to show cause why his claims for relief against Defendants should not be dismissed for failure to prosecute. (Doc. 6). The Court, in that order, warned Plaintiff that “[if] [he] fails by December 21, 2021 to show cause, [his] claims for relief shall be dismissed.” (*Id.*). Despite that warning, the December 21, 2021 deadline came and went without Plaintiff filing anything on the docket. It is now almost three weeks later, and Plaintiff still has not filed an affidavit—or anything, for that matter—showing good cause for why his claims for relief against Defendants should not be dismissed for failure to prosecute.

Notwithstanding Plaintiff’s failure to comply with the Court’s order to show cause, Plaintiff’s counsel mailed to the Court, but did not file, a letter dated December 13, 2021. The letter was docketed on January 6, 2022. (Doc. 7). Plaintiff’s counsel, in her letter, states that after

meeting with the Assistant District Attorney assigned to this case,¹ she has concluded that she “will not proceed” with this case. (*Id.*). As a result, Plaintiff’s counsel requests that this case be dismissed without prejudice, so that Plaintiff “may pursue this matter if he so chooses.” (*Id.*).

The Court construes Plaintiff’s counsel’s letter as a notice of voluntary dismissal under Federal Rule of Civil Procedure 41(a)(1)(A)(i), under which a plaintiff may dismiss an action without a court order. Accordingly, Plaintiff’s complaint is dismissed without prejudice.

The Clerk of the Court is respectfully directed to close this case.

SO ORDERED.

Dated: White Plains, New York
January 10, 2022



Philip M. Halpern
United States District Judge

¹ No Assistant District Attorney, or any attorney for that matter, has appeared on behalf of Defendants in this case.